United Nations S/AC.47/2018/1

Security Council

Distr.: General
12 July 2018

Original: English

Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 10 July 2018 from the Permanent Mission of Hungary to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Hungary to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan and has the honour to transmit herewith the report on the implementation in Hungary of Security Council resolutions 1556 (2004) and 1591 (2005) (see annex).

18-11485 (E) 010818

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Annex to the note verbale dated 10 July 2018 from the Permanent Mission of Hungary to the United Nations addressed to the Chair of the Committee

Report of Hungary on the implementation of Security Council resolutions 1556 (2004) and 1591 (2005)

Hungary and the other States members of the European Union have jointly implemented the restrictive measures against the Sudan imposed by the Security Council in its resolutions 1556 (2004) and 1591 (2005) by taking the following legally binding common measures:[1]

Common European Union measures

- Council Decision 2014/450/CFSP of 10 July 2014 concerning restrictive measures in view of the situation in Sudan and repealing Decision 2011/423/CFSP, last amended by Council Implementing Decision (CFSP) 2018/516 of 27 March 2018.
- Council Regulation (EU) No. 747/2014 of 10 July 2014 concerning restrictive measures in view of the situation in Sudan and repealing Regulations (EC) No. 131/2004 and (EC) No. 1184/2005, last amended by Council Implementing Regulation (EU) 2018/512 of 27 March 2018.

The Council Decision sets out the commitment of the European Union to implementing all the measures contained in Security Council resolutions 1556 (2004) and 1591 (2005) and provides the basis for European Union-specific accompanying measures within the scope of the resolutions, notably:

- Prohibition of the sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to the Sudan by nationals of member States or from the territories of member States, or using their flag vessels or aircraft, whether originating or not in their territories (arms embargo).
- Prohibition on providing technical or financial assistance or brokering services relating to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, directly or indirectly, to any natural or legal person, entity or body in or for use in the Sudan (prohibition on providing technical or financial assistance in relation to military activities).
- Obligation of member States to freeze all funds and economic resources belonging to or owned or controlled, directly or indirectly, by the natural or legal persons, entities or bodies listed in annex I to Council Regulation 747/2014, last amended by Council Implementing Regulation (EU) 2018/512 (asset freeze).
- Prohibition on making available, directly or indirectly, funds or economic resources to or for the benefit of the natural or legal persons, entities or bodies listed in annex I to Council Regulation 747/2014, last amended by Council Implementing Regulation (EU) 2018/512 (prohibition on providing financial assistance to listed persons).

[1] All common measures are published in the *Official Journal of the European Union*.

- Obligation of States members of the European Union to prevent the entry into, or transit through, their territory of the persons listed in the annex to Council Decision 2014/450/CFSP, last amended by Council Implementing Decision (CFSP) 2018/516 (entry ban).
- Obligation of States members of the European Union to supply immediately any such information that would facilitate compliance with Council Regulation (EU) No. 747/2014.

National implementing provisions

Council Regulation (EU) No. 747/2014 is binding in its entirety and directly applicable in all States members of the European Union. Under the Regulation, member States are also required to determine the penalties applicable to infringements of its provisions. The penalties determined by Hungary are set out in the legislation outlined below.

Under Act C of 2012 on the Criminal Code, the violation of the restrictive measures has legal consequences in the following cases:

(a) Terrorist financing;

(b) Violation of international economic restrictions;

(c) Failure to report violations of international economic restrictions;

(d) Criminal offences with military items and services;

(e) Smuggling of illegal immigrants;

(f) Facilitation of unauthorized residence.

In addition to the legal consequences, the Government Office of the Capital City Budapest may impose a fine ranging from Ft 100,000 to Ft 5 million on a person who negligently violates the obligation to respect foreign trade restrictions imposed through international sanctions.

Arms embargo

Under Hungary's national legislation, authorization is required for the sale, supply, transfer or export of arms and related materiel[2] to third countries and for the provision of brokering services and other services relating to military activities.

Government Decree 156/2017 (VI.16.) concerning the licensing of activities relating to military technology and the certification of undertakings ensures that every trade activity relating to arms is subject to licensing and that a negative decision is mandatory, inter alia, for transactions contravening the international obligations of Hungary.

The Department of Trade, Defence Industry, Export Control and Precious Metal Assay of the Government Office of the Capital City Budapest, as the national foreign trade authority of Hungary, is responsible for licensing the export and supply of, as well as technical assistance (including training) and brokering services relating to, military equipment/materials, including weapons and ammunition, military vehicles, paramilitary equipment and spare parts for the aforementioned. In its procedure, the Government Office examines all relevant information, including the purpose of the intended end use.

[2] This legislation applies to all goods included in the Common Military List of the European Union.

To comply with Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, in deciding whether to grant an authorization, the Government Office of the Capital City Budapest shall take into account the obligations under sanctions imposed by the United Nations. The Government Office declares that, between 30 July 2004 and the present, it has not granted any authorization for the direct or indirect export or supply of military equipment or related services, including training, technical assistance and brokering services, to the Sudan.

According to the information provided by the Hungarian Constitution Protection Office, no commercial transaction involving arms or any military equipment has been recorded since the United Nations arms embargo against the Sudan entered into force.

In the case of a criminal offence falling under its competence, the Counter-Terrorism Centre is obliged to take immediate measures by using the operational forces, tools and methods provided by law.

The Hungarian National Police Headquarters has no information on any suspects — from the region of Darfur or anywhere else in the Sudan — involved in illegal firearms trafficking in the territory of Hungary. The Hungarian police have identified only one person from the Sudan who was an active member of an organized crime group involved in human smuggling activities in the territory of Hungary.

At the Leaders' Summit on Peacekeeping, held in New York on 28 September 2015, Member States, including Hungary, pledged contributions to enhance the effectiveness and efficiency of United Nations peacekeeping operations. The Government of Hungary offered the deployment of 10 experts specialized in fighting organized crime and in border management to the African Union-United Nations Hybrid Operation in Darfur, who could have provided training for members of the Operation. However, as the Hungarian experts did not receive the visas required to enter Darfur owing to the restrictive visa policy of the Government of the Sudan, those efforts failed.

Restrictions concerning entry into the territory of Hungary

With regard to the restrictions on admission (visa ban), the following national legislation of Hungary, together with Council Decision (CFSP) 2016/849, Council Regulation (EC) No. 810/2009 and Council Regulation (EC) No. 539/2001,[3] provides the basis for the refusal of admission and denial of visa requests: Section 43 of Act II of 2007, on the Admission and Right of Residence of Third-Country Nationals, and section 38 of Act I of 2007, on the Admission and Residence of Persons with the Right of Free Movement and Residence.

National institutions applying the financial and asset-related restrictive measures

In May 2017, the National Assembly of Hungary adopted Act LII of 2017 on the implementation of financial and asset-related restrictive measures ordered by the European Union and the Security Council. The Act entered into force on 26 June. The Hungarian authorities apply the restrictive measures of the Security Council directly on the basis of that Act.

Under the previous act, the restrictive measures issued by the Security Council were implemented through directly applicable European Union regulations, whereas one of the main purposes of the new Act was to make the legal situation clear and to ensure the direct application of Security Council resolutions, including the restrictive measures against the Sudan.

[3] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.

According to the provisions of the new Act, financial and non-financial service providers (as defined by Act LIII of 2017 on preventing and combating money-laundering and terrorist financing) are obliged to prepare internal rules. Furthermore, service providers must have a screening system that ensures the prompt implementation of targeted financial sanctions. In addition, the rules relating to data protection, procedures for exemptions, the prohibition on making funds or economic resources available and restrictions on the transfer of funds, as well as a special type of legal remedy, have been reviewed and clarified in the new Act.

The Security Council resolutions concerning the Sudan have been integrated and included in the risk-based analysis protocol of the Hungarian Financial Intelligence Unit, as have all financial and asset-related restrictive measures adopted by the United Nations and the European Union. According to the new Act, service providers are to continuously monitor the adoption and subsequent amendments of European Union legislation and Security Council resolutions containing financial and asset-related restrictive measures. The service providers and the entities keeping asset records immediately report to the authority responsible for the enforcement of financial and asset-related restrictive measures (for which the competent authority is the Hungarian Financial Intelligence Unit) all data, facts and circumstances which suggest that the subject of a financial and asset-related restrictive measure has any funds or economic resources in the territory of Hungary that fall under the scope of those measures.

At present, the Hungarian Financial Intelligence Unit does not possess any information that would make it necessary to take measures in connection with the sanctions regime introduced in relation to the Sudan.

As a new element of the legislative framework, effective 20 July 2017, sections 32 to 34 of Central Bank Decree No. 19/2017 (VII.19.) contain provisions concerning the development of a screening system for the implementation of restrictive measures imposed by the European Union and the Security Council relating to funds and other financial interests, as well as the minimum requirements for the operation of that system.

The Central Bank of Hungary, as a supervisory authority of the financial sector, directly informs the associations of the service providers supervised (such as the Hungarian Banking Association, the Hungarian Leasing Association, the Association of Hungarian Insurance Companies, the Hungarian Association of Investment Service Providers, the Association of Hungarian Investment Fund and Asset Management Companies and the Hungarian Venture Capital and Private Equity Association) about relevant changes to restrictive measures and sanctions.

Furthermore, the Central Bank opened a new communication channel for market participants, established a new question-and-answer section on its supervisory web page,[4] and revised the web page with regard to the database of restrictive measures and sanctions,[5] where information concerning sanctions against the Sudan can also be found. Relevant sanctions and restrictive measures are listed by year and are continually updated.

As from 2 May 2017, the Central Bank also informs service providers via their associations by email in order to raise awareness of money-laundering, the financing of terrorism and the implementation of targeted financial sanctions. Notification

[4] Available at: www.mnb.hu/felugyelet/szabalyozas/penzmosas-ellen/kotelezo-es-iranyado-szabalyok/jogertelmezesi-kerdesek-es-valaszok-q-a.

[5] Available at: www.mnb.hu/felugyelet/szabalyozas/penzmosas-ellen/korlatozo-intezkedesek-szankciok/penzugyi-es-vagyoni-korlatozo-intezkedesek.

emails concerning amendments to the restrictive measures against the Sudan were sent to the associations on 18 October 2017.

In order to provide professional support for market participants, the Central Bank issued guidance for supervised service providers in the form of a template that they can use in the preparation of their internal policies; however, its structure, format, numbering and wording are not binding. Service providers may freely derogate from the guidance as long as their documents contain all mandatory elements and are not contrary to the law. The guidance contains all relevant provisions on the implementation and execution of the restrictive measures imposed by the European Union and the United Nations.

To sum up, Act LII of 2017 on the implementation of financial and asset-related restrictive measures ordered by the European Union and the Security Council ensures efficient implementation of the international obligations relating to targeted financial sanctions and increases the efficiency of the national system of Hungary against terrorism and the financing of terrorism.